



March 21, 2003

ENGROSSED

SENATE BILL No. 308

DIGEST OF SB 308 (Updated March 19, 2003 9:14 AM - DI 103)

Citations Affected: IC 23-7.

Synopsis: Professional fundraisers. Sets a July 1 expiration date for professional fundraiser registration renewals. Modifies information that registrants must provide to the attorney general.

Effective: July 1, 2003.

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(HOUSE SPONSORS — STEVENSON, BORROR)

January 15, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.

January 28, 2003, reported favorably — Do Pass.

February 3, 2003, read second time, ordered engrossed. Engrossed.

February 10, 2003, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Commerce and Economic Development.

March 20, 2003, amended, reported — Do Pass.

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ES 308—LS 7417/DI 108+



March 21, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 308

A BILL FOR AN ACT to amend the Indiana Code concerning
business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 23-7-8-2, AS AMENDED BY P.L.135-1999,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2. (a) A person may not act as a professional
4 fundraiser consultant or professional solicitor for a charitable
5 organization unless the person has first registered with the division. A
6 person who applies for registration shall disclose the following
7 information while under oath:
8 (1) The names and addresses of all officers, employees, and
9 agents who are actively involved in fundraising or related
10 activities.
11 (2) The names and addresses of all persons who own a ten percent
12 (10%) or more interest in the registrant.
13 (3) A description of any other business related to fundraising
14 conducted by the registrant or any person who owns ten percent
15 (10%) or more interest.
16 (4) The name or names under which it intends to solicit
17 contributions.

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(5) Whether the organization has ever had its registration denied, suspended, revoked, or enjoined by any court or other governmental authority.

(b) A registrant shall notify the division in writing within one hundred eighty (180) days of any change in the information contained in the registration. However, if requested by the division, the solicitor has fifteen (15) days to notify the division of any change in the information.

~~(c) Each registration is valid for one (1) year and may be renewed for additional one (1) year periods upon application to the division and payment of the renewal fee.~~

~~(d)~~ (c) Before acting as a professional fundraiser consultant for a particular charitable organization, the consultant must enter into a written contract with the organization and file this contract with the division. The contract must identify the services that the professional fundraiser consultant is to provide, including whether the professional fundraiser consultant will at any time have custody of contributions.

~~(e)~~ (d) Before a professional solicitor engages in a solicitation, the professional solicitor must have a contract which is filed with the division. This contract must specify the percentage of gross contributions which the charitable organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable organization will receive. The amount that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or as a reasonable estimate of the gross revenue. **of gross revenue from the solicitation campaign that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or expressed as a reasonable estimate of the percentage of the gross revenue. If a reasonable estimate is used, the contract must clearly disclose the assumptions or a formula upon which the estimate is based.** If a fixed percentage is used, the percentage must exclude any amount that the charitable organization is to pay as expenses of the solicitation campaign, including the cost of the merchandise or services sold. If requested by the charitable organization, the person who solicits must at the conclusion of a charitable appeal provide to the charitable organization the names and addresses of all contributors, the amount of each contribution, and a final accounting of all expenditures. Such information may not be used in violation of any trade secret laws. The contract must disclose the average percentage of gross contributions collected on behalf of charitable organizations that the charitable organizations received from

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the professional solicitor for the three (3) years preceding the year in which the contract is formed.

~~(f)~~ (e) Before beginning a solicitation campaign, a professional solicitor must file a solicitation notice with the division. The notice must include the following:

- (1) A copy of the contract described in subsection ~~(e)~~: (d).
- (2) The projected dates when soliciting will begin and end.
- (3) The location and telephone number from where solicitation will be conducted.
- (4) The name and residence address of each person responsible for directing and supervising the conduct of the campaign. However, the division shall not divulge the residence address unless ordered to do so by a court of competent jurisdiction, or in furtherance of the prosecution of a violation under this chapter.
- (5) If the solicitation is one described under section 7(a)(2) of this chapter, the solicitation notice must include a copy of the required written authorization.

~~(g)~~ (f) Not later than ninety (90) days after a solicitation campaign other than a campaign for which a written authorization has been filed under subsection ~~(f)~~(5), has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, a professional solicitor shall submit the following information concerning the campaign to the division:

- (1) The total gross amount of money raised by the professional solicitor and the charitable organization from donors.
- (2) The total amount of money paid to or retained by the professional solicitor.
- (3) The total amount of money, not including the amount identified under subsection ~~(g)~~(2), **subdivision (2)**, paid by the charitable organization as expenses as part of the solicitation campaign.
- (4) The total amount of money paid to or retained by the charitable organization after the amounts identified under subsection ~~(g)~~(2) **subdivision (2)** and ~~(g)~~(3) (3) are deducted.

The division may deny or revoke the registration of a professional solicitor who fails to comply with this subsection.

~~(h)~~ (g) The charitable organization on whose behalf the professional solicitor is acting must certify that the information filed under subsections ~~(f)~~ (e) and ~~(g)~~ (f) is true and complete to the best of its knowledge.

~~(i)~~ (h) At the beginning of each solicitation call, a professional

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fundraiser consultant and a professional solicitor must state all of the following:

- (1) The name of the company for whom the professional fundraiser consultant or professional solicitor is calling.
- (2) The name of the professional fundraiser consultant or professional solicitor.
- (3) The phone number and address of the location from which the professional fundraiser consultant or professional solicitor is making the telephone call.
- (4) The percentage of the charitable contribution that will be expended for charitable purposes after administrative costs and the costs of making the solicitation have been satisfied.

SECTION 2. IC 23-7-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who solicits charitable contributions may not:

- (1) use the fact of registration as an endorsement by the state;
- (2) **misrepresent that the person is an officer or employee of a public safety agency;**
- (3) use the name "police", "law enforcement", "trooper", "rescue squad", "firemen", or "firefighter" unless a bona fide police, law enforcement, rescue squad, or fire department authorizes its use in writing;
- ~~(3)~~ (4) misrepresent to anyone that the contribution will be used for a charitable purpose if the person has reason to believe the contribution will not be used for a charitable purpose;
- ~~(4)~~ (5) misrepresent to anyone that another person endorses the solicitation unless that person has consented in writing to the use of the person's name for the purpose of endorsing the solicitation;
- ~~(5)~~ (6) misrepresent to anyone that the contribution is solicited on behalf of anyone other than the charitable organization that authorized the solicitation; or
- ~~(6)~~ (7) collect or attempt to collect a contribution in person or by means of a courier unless:

- (A) the solicitation is made in person and the collection or attempt to collect is made at the time of the solicitation; or
- (B) the contributor has agreed to purchase goods or items in connection with the solicitation, and the collection or attempt to collect is made at the time of delivery of the goods or items.

(b) A person who solicits charitable contributions shall not represent that tickets to events will be donated for use by another, unless the following requirements have been met:

- (1) The paid solicitor has commitments, in writing, from



- 1 charitable organizations stating that they will accept donated
- 2 tickets and specifying the number of tickets they are willing to
- 3 accept.
- 4 (2) No more contributions for donated tickets are solicited than
- 5 the number of ticket commitments received from charitable
- 6 organizations.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 308, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 308 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred Senate Bill 308, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, after "IC 23-7-8-2" insert ", AS AMENDED BY P.L.135-1999, SECTION 8,".

and when so amended that said bill do pass.

(Reference is to SB 308 as printed January 29, 2003.)

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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